

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN SENATE MAY 28, 2014

SENATE BILL

No. 1379

Introduced by Senator Huff

**(Coauthors: Senators Berryhill, Cannella, Fuller, Gaines, Knight,
Morrell, Nielsen, Vidak, Walters, and Wyland)**

February 21, 2014

An act to amend Sections 85305, ~~89513~~, 89514, and 89518 of, and to add Sections 84208, 85301.7, 85305.1, ~~and~~ 86205.5, *and* 89514.5 to, the Government Code, and to amend Sections 68 and 86 of the Penal Code, relating to political reform, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1379, as amended, Huff. Political reform.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions. The act imposes a contribution limit of \$3,000 on contributions made to, and received by, candidates for elective state offices that are not statewide elective offices. The act is administered and enforced by the Fair Political Practices Commission, which is authorized to adjust the contribution limit to reflect changes in the Consumer Price Index, as specified. The act does not limit the amount of contributions that a person may make to a committee that is primarily formed to support or oppose one or more ballot measures. The act prohibits a candidate for elective state office or a committee controlled by that candidate from making a contribution to another candidate for elective state office in excess of the contribution limit for elective state offices.

The act imposes various restrictions and reporting requirements on Members of the Legislature and candidates for either house of the Legislature, including prohibiting or restricting earned income from a lobbyist or lobbyist employer, restricting the receipt of gifts, and restricting the purposes for which campaign funds may be expended.

This bill would prohibit a person from making to a committee controlled by a candidate for elective office that is primarily formed to support or oppose one or more ballot measures, and prohibit such a committee from receiving, a contribution in excess of the contribution limit for elective state offices, as specified. The bill would prohibit a candidate for any elective office, or the candidate's controlled committees, from making a contribution to another candidate for elective office or a committee controlled by a candidate that is primarily formed to support or oppose one or more ballot measures in excess of the contribution limit established for candidates for elective state office.

This bill would prohibit a committee controlled by a candidate for elective office that is primarily formed to support or oppose one or more ballot measures from expending campaign funds to make a contribution or other transfer of campaign funds to a committee for a purpose other than supporting or opposing a ballot measure that the controlled committee was primarily formed to support or oppose.

This bill would prohibit a lobbyist or lobbyist employer from providing any compensation to a spouse or dependent of a Member or candidate, except as specified. The bill would prohibit campaign funds from being used to compensate a spouse or dependent of a Member of the Legislature or of a candidate for either house of the Legislature. ~~The bill would prohibit the use of campaign funds from being used to pay a fine, a penalty, or legal fees arising out of a criminal violation or to pay a spouse or dependent of a Member of the Legislature or a candidate for either house of the Legislature, except as specified.~~ *This bill would prohibit the expenditure of campaign funds for attorney's fees and other costs in connection with criminal litigation, and would limit the payment of criminal litigation attorney's fees and other related legal costs arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities or duties to funds deposited in a legal defense account created pursuant to other specified provisions of law. The bill would also prohibit a committee that is not a legal defense committee from making an expenditure of campaign funds to any legal defense account.*

This bill would require a Member of the Legislature or a candidate for either house of the Legislature to report to the Secretary of State a contribution of one thousand dollars (\$1,000) or greater within three business days of receipt of the contribution.

A violation of the act's provisions is punishable as a misdemeanor. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law subjects any member of the Legislature or any member of the legislative body of a city, county, city and county, school district, or other special district, and every executive or ministerial officer, employee, or appointee of the state, a county or city, or political subdivision, who asks for or receives a bribe in exchange for influence over his or her official action to imprisonment in a state prison for 2, 3, or 4 years, and imposes prescribed restitution fines based on whether a bribe has actually been received.

This bill would increase the punishment to 4, 6, or 8 years in state prison and would increase the restitution fines to twice the original amount.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Legislative Reform and Transparency Act of 2014.
- 3 SEC. 2. Section 84208 is added to the Government Code, to
- 4 read:

1 84208. In addition to any other reporting requirements of this
2 title, a Member of the Legislature or a candidate for either house
3 of the Legislature *who is subject to the online or electronic filing*
4 *requirements set forth in Section 84605* shall report to the Secretary
5 of State *online or electronically* a contribution of one thousand
6 dollars (\$1,000) or greater within three business days of receipt of
7 the contribution.

8 SEC. 3. Section 85301.7 is added to the Government Code, to
9 read:

10 85301.7. ~~A~~—*For each period between statewide general*
11 *elections, as defined in Section 1200 of the Elections Code, a*
12 *person shall not make to a committee controlled by a candidate*
13 *for elective office that is primarily formed to support or oppose*
14 *one or more ballot measures, and such a committee shall not accept*
15 *from a person, a contribution in excess of the contribution limit*
16 *established pursuant to subdivision (a) of Section 85301, as*
17 *adjusted by the Commission pursuant to Section 83124. The*
18 *contribution limit described in this section shall be the aggregate*
19 *amount of contributions that a candidate may accept per*
20 *contributor for his or her controlled committees that are primarily*
21 *formed to support or oppose one or more ballot measures,*
22 *regardless of the number of such committees controlled by that*
23 *candidate.*

24 SEC. 4. Section 85305 of the Government Code is amended
25 to read:

26 85305. A candidate for elective office or a committee controlled
27 by that candidate shall not make a contribution to another candidate
28 for elective office or to a committee controlled by another candidate
29 for elective office that is primarily formed to support or oppose
30 one or more ballot measures in excess of the limit established
31 pursuant to subdivision (a) of Section 85301, as adjusted pursuant
32 to Section 83124.

33 SEC. 5. Section 85305.1 is added to the Government Code, to
34 read:

35 85305.1. Notwithstanding any other provision of this title or
36 Section 18680 of the Elections Code, a committee controlled by
37 a candidate for elective office that is primarily formed to support
38 or oppose one or more ballot measures shall not expend campaign
39 funds to make a contribution or other transfer of campaign funds
40 to a committee for a purpose other than supporting or opposing a

1 ballot measure that the controlled committee was primarily formed
2 to support or oppose.

3 SEC. 6. Section 86205.5 is added to the Government Code, to
4 read:

5 86205.5. A lobbyist or lobbyist employer shall not provide any
6 compensation to a spouse or dependent of a Member of the
7 Legislature or a candidate for either house of the Legislature, unless
8 the compensation is for services performed in the ordinary course
9 of business or employment that is unrelated to an election,
10 campaign activity, or services provided for either house of the
11 Legislature.

12 ~~SEC. 7. Section 89513 of the Government Code is amended~~
13 ~~to read:~~

14 ~~89513. This section governs the use of campaign funds for the~~
15 ~~specific expenditures set forth in this section. It is the intent of the~~
16 ~~Legislature that this section shall guide the interpretation of the~~
17 ~~standard imposed by Section 89512 as applied to other expenditures~~
18 ~~not specifically set forth in this section.~~

19 ~~(a) (1) Campaign funds shall not be used to pay or reimburse~~
20 ~~the candidate, the elected officer, or any individual or individuals~~
21 ~~with authority to approve the expenditure of campaign funds held~~
22 ~~by a committee, or employees or staff of the committee or the~~
23 ~~elected officer's governmental agency for travel expenses and~~
24 ~~necessary accommodations except when these expenditures are~~
25 ~~directly related to a political, legislative, or governmental purpose.~~

26 ~~(2) For the purposes of this section, payments or reimbursements~~
27 ~~for travel and necessary accommodations shall be considered as~~
28 ~~directly related to a political, legislative, or governmental purpose~~
29 ~~if the payments would meet standards similar to the standards of~~
30 ~~the Internal Revenue Service pursuant to Sections 162 and 274 of~~
31 ~~the Internal Revenue Code for deductions of travel expenses under~~
32 ~~the federal income tax law.~~

33 ~~(3) For the purposes of this section, payments or reimbursement~~
34 ~~for travel by the household of a candidate or elected officer when~~
35 ~~traveling to the same destination in order to accompany the~~
36 ~~candidate or elected officer shall be considered for the same~~
37 ~~purpose as the candidate's or elected officer's travel.~~

38 ~~(4) Whenever campaign funds are used to pay or reimburse a~~
39 ~~candidate, elected officer, his or her representative, or a member~~
40 ~~of the candidate's household for travel expenses and necessary~~

1 accommodations, the expenditure shall be reported as required by
2 Section 84211.

3 ~~(5) Whenever campaign funds are used to pay or reimburse for
4 travel expenses and necessary accommodations, any mileage credit
5 that is earned or awarded pursuant to an airline bonus mileage
6 program shall be deemed personally earned by or awarded to the
7 individual traveler. Neither the earning or awarding of mileage
8 credit, nor the redeeming of credit for actual travel, shall be subject
9 to reporting pursuant to Section 84211.~~

10 ~~(b) (1) Campaign funds shall not be used to pay for or reimburse
11 the cost of professional services unless the services are directly
12 related to a political, legislative, or governmental purpose.~~

13 ~~(2) Expenditures by a committee to pay for professional services
14 reasonably required by the committee to assist it in the performance
15 of its administrative functions are directly related to a political,
16 legislative, or governmental purpose.~~

17 ~~(3) Campaign funds shall not be used to pay health-related
18 expenses for a candidate, elected officer, or any individual or
19 individuals with authority to approve the expenditure of campaign
20 funds held by a committee, or members of his or her household.
21 "Health-related expenses" includes, but is not limited to,
22 examinations by physicians, dentists, psychiatrists, psychologists,
23 or counselors, expenses for medications, treatments or medical
24 equipment, and expenses for hospitalization, health club dues, and
25 special dietary foods. However, campaign funds may be used to
26 pay employer costs of health care benefits of a bona fide employee
27 or independent contractor of the committee.~~

28 ~~(e) Campaign funds shall not be used to pay or reimburse fines,
29 penalties, judgments, or settlements, except those resulting from
30 either of the following:~~

31 ~~(1) Parking citations incurred in the performance of an activity
32 that was directly related to a political, legislative, or governmental
33 purpose.~~

34 ~~(2) Any other action for which payment of attorney's fees from
35 contributions would be permitted pursuant to this title.~~

36 ~~(d) Campaign funds shall not be used for campaign, business,
37 or casual clothing except specialty clothing that is not suitable for
38 everyday use, including, but not limited to, formal wear, if this
39 attire is to be worn by the candidate or elected officer and is directly
40 related to a political, legislative, or governmental purpose.~~

1 ~~(e) (1) Except where otherwise prohibited by law, campaign~~
2 ~~funds may be used to purchase or reimburse for the costs of~~
3 ~~purchase of tickets to political fundraising events for the attendance~~
4 ~~of a candidate, elected officer, or his or her immediate family, or~~
5 ~~an officer, director, employee, or staff of the committee or the~~
6 ~~elected officer's governmental agency.~~

7 ~~(2) Campaign funds shall not be used to pay for or reimburse~~
8 ~~for the costs of tickets for entertainment or sporting events for the~~
9 ~~candidate, elected officer, or members of his or her immediate~~
10 ~~family, or an officer, director, employee, or staff of the committee,~~
11 ~~unless their attendance at the event is directly related to a political,~~
12 ~~legislative, or governmental purpose.~~

13 ~~(3) The purchase of tickets for entertainment or sporting events~~
14 ~~for the benefit of persons other than the candidate, elected officer,~~
15 ~~or his or her immediate family are governed by subdivision (f).~~

16 ~~(f) (1) Campaign funds shall not be used to make personal gifts~~
17 ~~unless the gift is directly related to a political, legislative, or~~
18 ~~governmental purpose. The refund of a campaign contribution~~
19 ~~does not constitute the making of a gift.~~

20 ~~(2) Nothing in this section shall prohibit the use of campaign~~
21 ~~funds to reimburse or otherwise compensate a public employee~~
22 ~~for services rendered to a candidate or committee while on~~
23 ~~vacation, leave, or otherwise outside of compensated public time.~~

24 ~~(3) An election victory celebration or similar campaign event,~~
25 ~~or gifts with a total cumulative value of less than two hundred fifty~~
26 ~~dollars (\$250) in a single year made to an individual employee, a~~
27 ~~committee worker, or an employee of the elected officer's agency,~~
28 ~~are considered to be directly related to a political, legislative, or~~
29 ~~governmental purpose. For purposes of this paragraph, a gift to a~~
30 ~~member of a person's immediate family shall be deemed to be a~~
31 ~~gift to that person.~~

32 ~~(g) Campaign funds shall not be used to make loans other than~~
33 ~~to organizations pursuant to Section 89515, or, unless otherwise~~
34 ~~prohibited, to a candidate for elective office, political party, or~~
35 ~~committee.~~

36 ~~(h) Campaign funds shall not be used by a Member of the~~
37 ~~Legislature or a candidate for either house of the Legislature to~~
38 ~~pay a fine, a penalty, or legal fees arising out of a criminal violation~~
39 ~~or an alleged criminal violation unless those campaign funds are~~

1 received or expended by a committee for the legal defense of the
2 Member or candidate.

3 *SEC. 7. Section 89514 of the Government Code is amended to*
4 *read:*

5 89514. Expenditures of campaign funds for attorney's fees and
6 other costs in connection with ~~administrative, civil, or criminal~~
7 *administrative or civil* litigation are not directly related to a
8 political, legislative, or governmental purpose except where the
9 litigation is directly related to activities of a committee that are
10 consistent with its primary objectives or arises directly out of a
11 committee's activities or out of a candidate's or elected officer's
12 activities, duties, or status as a candidate or elected officer,
13 including, but not limited to, an action to enjoin defamation,
14 defense of an action to enjoin defamation, defense of an action
15 brought for a violation of state or local campaign, disclosure, or
16 election laws, and an action arising from an election contest or
17 recount.

18 *SEC. 8. Section 89514.5 is added to the Government Code, to*
19 *read:*

20 89514.5. (a) *Expenditures of campaign funds for attorney's*
21 *fees and other costs in connection with criminal litigation are not*
22 *directly related to a political, legislative, or governmental purpose.*

23 (b) *Notwithstanding subdivision (a), attorney's fees and other*
24 *related legal costs incurred in connection with criminal litigation*
25 *arising directly out of the conduct of an election campaign, the*
26 *electoral process, or the performance of the officer's governmental*
27 *activities or duties may be paid for using funds deposited in a legal*
28 *defense account created pursuant to Section 85304 or 85304.5.*

29 (c) *A committee that is not a legal defense committee shall not*
30 *make an expenditure of campaign funds to a legal defense account*
31 *created pursuant to Section 85304 or 85304.5.*

32 ~~SEC. 8:~~

33 *SEC. 9. Section 89518 of the Government Code is amended*
34 *to read:*

35 89518. (a) Campaign funds shall not be used to compensate
36 a candidate or elected officer for the performance of political,
37 legislative, or governmental activities, except for reimbursement
38 of out-of-pocket expenses incurred for political, legislative, or
39 governmental purposes.

1 (b) Campaign funds shall not be used to compensate any
2 individual or individuals with authority to approve the expenditure
3 of campaign funds for the performance of political, legislative, or
4 governmental activities, except as provided in subdivision (b) of
5 Section 89513 and for reimbursement of out-of-pocket expenses
6 incurred for political, legislative, or governmental purposes.

7 (c) Campaign funds of a Member of the Legislature or of a
8 candidate for either house of the Legislature shall not be used to
9 compensate the spouse or a dependent of the Member or candidate.

10 ~~SEC. 9.~~

11 *SEC. 10.* Section 68 of the Penal Code is amended to read:

12 68. (a) Every executive or ministerial officer, employee, or
13 appointee of the State of California, a city, county, city and county
14 therein, or a political subdivision thereof, who asks, receives, or
15 agrees to receive, any bribe, upon any agreement or understanding
16 that his or her vote, opinion, or action upon any matter then
17 pending, or that may be brought before him or her in his or her
18 official capacity, shall be influenced thereby, is punishable by
19 imprisonment in the state prison for four, six, or eight years and,
20 in cases in which no bribe has been actually received, by a
21 restitution fine of not less than four thousand dollars (\$4,000) or
22 not more than twenty thousand dollars (\$20,000) or, in cases in
23 which a bribe was actually received, by a restitution fine of at least
24 the actual amount of the bribe received or four thousand dollars
25 (\$4,000), whichever is greater, or any larger amount of not more
26 than double the amount of any bribe received or twenty thousand
27 dollars (\$20,000), whichever is greater, and, in addition thereto,
28 forfeits his or her office, employment, or appointment, and is
29 forever disqualified from holding any office, employment, or
30 appointment, in this state.

31 (b) In imposing a restitution fine pursuant to this section, the
32 court shall consider the defendant's ability to pay the fine.

33 ~~SEC. 10.~~

34 *SEC. 11.* Section 86 of the Penal Code is amended to read:

35 86. (a) Every Member of either house of the Legislature, or
36 any member of the legislative body of a city, county, city and
37 county, school district, or other special district, who asks, receives,
38 or agrees to receive, any bribe, upon any understanding that his or
39 her official vote, opinion, judgment, or action shall be influenced
40 thereby, or shall give, in any particular manner, or upon any

1 particular side of any question or matter upon which he or she may
2 be required to act in his or her official capacity, or gives, or offers
3 or promises to give, any official vote in consideration that another
4 Member of the Legislature, or another member of the legislative
5 body of a city, county, city and county, school district, or other
6 special district shall give this vote either upon the same or another
7 question, is punishable by imprisonment in the state prison for
8 four, six, or eight years and, in cases in which no bribe has been
9 actually received, by a restitution fine of not less than four thousand
10 dollars (\$4,000) or not more than twenty thousand dollars (\$20,000)
11 or, in cases in which a bribe was actually received, by a restitution
12 fine of at least the actual amount of the bribe received or four
13 thousand dollars (\$4,000), whichever is greater, or any larger
14 amount of not more than double the amount of any bribe received
15 or twenty thousand dollars (\$20,000), whichever is greater.

16 (b) In imposing a fine under this section, the court shall consider
17 the defendant's ability to pay the fine.

18 ~~SEC. 11.~~

19 *SEC. 12.* No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 ~~SEC. 12.~~

29 *SEC. 13.* The Legislature finds and declares that this bill
30 furthers the purposes of the Political Reform Act of 1974 within
31 the meaning of subdivision (a) of Section 81012 of the Government
32 Code.

33 ~~SEC. 13.~~

34 *SEC. 14.* This act is an urgency statute necessary for the
35 immediate preservation of the public peace, health, or safety within
36 the meaning of Article IV of the Constitution and shall go into
37 immediate effect. The facts constituting the necessity are:

1 In order to implement these proposals at the earliest possible
2 time before the 2014 general election, it is necessary that this act
3 take immediate effect.

O